

**IN THE ENVIRONMENT COURT  
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA  
KI TAMAKI MAKAU**

**Decision No. [2023] NZEnvC 261**

IN THE MATTER OF

appeals under s 174 of the Resource  
Management Act 1991

BETWEEN

THE WAREHOUSE LIMITED

(ENV-2023-AKL-000195)

GENERAL DISTRIBUTORS  
LIMITED

(ENV-2023-AKL-000197)

PAKURANGA PLAZA LIMITED

(ENV-2023-AKL-000198)

Appellants

AND

AUCKLAND TRANSPORT

Respondent

Court: Environment Judge J A Smith

Hearing: On the papers

Last case event: 27 November 2023

Date of Decision: 1 December 2023

Date of Issue: 1 December 2023

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**DECISION ON WAIVER AND DIRECTIONS OF THE  
ENVIRONMENT COURT**

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A: General Distributors Limited application for waiver of time is granted.

B: Case management directions are set out within.

General Distributors Limited v Auckland Transport



## **REASONS**

### **Introduction**

[1] The Warehouse Limited, General Distributors Limited (**GDL**), and Pakuranga Plaza Limited have lodged appeals against the decision of Auckland Transport in respect of a notice of requirement for a designation for the Eastern Busway Stage 2 (**NOR**) at Pakūranga Town Centre.

### **GDL application for waiver of time**

[2] GDL has applied for a waiver in respect of the time within which it was required to serve notice of its appeal on the respondent.

[3] GDL's appeal was to be served on the respondent within 15 working days of the notice of the decision being received under s 120 RMA, which was Friday 24 November 2023. Counsel for GDL filed the appeal with the Court on 24 November 2023, and also served all submitters a copy of its appeal at the same time.

[4] Due to an administrative oversight, counsel for GDL failed to send the notice of appeal to the respondent. GDL were alerted to this oversight by counsel for the respondent on Monday 27 November 2023. GDL promptly served the appeal on counsel for the respondent on 27 November 2023.

[5] For completeness, GDL seeks a waiver pursuant to s 281 RMA of the requirement to serve its notice of appeal outside of the 15 working day period prescribed.

[6] As no substantive steps have been taken in relation to the appeal, and given the very limited delay, GDL submits that none of the parties to the appeal will be unduly prejudiced by the granting of this waiver.

### ***Legal framework***

[7] Section 281 RMA provides:

#### 281 Waivers and directions

- (1) A person may apply to the Environment Court to—
  - (a) waiver a requirement of this Act or another Act or a regulation about—
    - (i) the time within which anything shall be served; or
    - ...
- (2) The Environment Court shall not grant an application under this section unless it is satisfied that none of the parties to the proceedings will be unduly prejudiced.

### ***Consideration***

[8] I accept that no party will be unduly prejudiced by the granting of the waiver. The delay was very limited in that service on the respondent was only one working day late. No substantive steps have been taken in relation to the appeal.

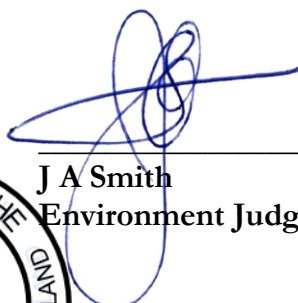
[9] In accordance with s 281 RMA, the application for waiver is granted.

### **Case management directions**

[10] The appeals will be joined for current purposes and identified in correspondence as **Pakuranga Bus Station designation**.

[11] The appeals are placed on the on Judge Managed Track.

[12] A Judicial Conference will be convened in the week of 11 December 2023. The Registry will be in contact with parties to arrange a date/time.



J A Smith  
Environment Judge

